

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES J. HAMILTON,)	
)	
Plaintiff,)	
)	
v.)	No. 4:14-CV-766 CDP
)	
BROC GREMMINGER, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Before the Court is plaintiff's motion to enforce court costs and to have his transcripts furnished by the Court. [Doc. #220] and on his later filed "Writ of Mandamus – Petition," which again asks the Court to enforce the award of costs.

Plaintiff, who is currently incarcerated at Eastern Reception, Diagnostic Correctional Center ("ERDCC"), brought this action pursuant to 42 U.S.C. § 1983 claiming that defendant Margaret Huff was deliberately indifferent to his serious medical needs in violation of the Eighth Amendment to the United States Constitution. After a jury trial, the Court granted plaintiff's motion for judgment as a matter of law at the close of the case. The jury awarded plaintiff \$1.00 in nominal damages. [Doc. #180]. Costs were taxed in an amount of \$626.20 against defendant Margaret Huff on July 27, 2017. [Doc. #208].

Plaintiff filed a notice of appeal of the amount of the jury verdict on August 3, 2017. [Doc. #210]. Plaintiff immediately requested a free copy of the trial transcript to aid in his appeal. [Doc. #211]. The Court denied his request for a trial transcript on August 21, 2017. [Doc. #218]. Plaintiff renewed his request for a gratis copy on August 24, 2017. [Doc. #220].

The Court will again deny plaintiff's request for a free copy of the trial transcript. Although plaintiff proceeded as a pauper in the District Court in this matter, he has not been granted leave to proceed in forma pauperis on appeal in this matter by the District Court. Additionally, the Court has not certified that plaintiff's suit on appeal is not frivolous and that the transcript is necessary to decide the issue presented by the suit or appeal.¹ See 28 U.S.C. § 753(f). Thus, this Court will not grant plaintiff the right to a free transcript in this matter. Plaintiff may, of course, renew his motion in the Eighth Circuit Court of Appeals.

Last, the Court has contacted defense counsel regarding plaintiff's motion to enforce court costs. Defense counsel has assured the Court that a check for \$376.00 has been written and sent to plaintiff, to be deposited in plaintiff's Missouri Department of Corrections' inmate account. The additional costs were sent by separate check to plaintiff's counsel. Plaintiff will continue to pay the full filing fee of \$350 to the District Court until the filing fee has been paid by direct withdrawals from his account. To that end, the Court will deny his motion to enforce the judgment, without prejudice, as it appears that he has received the relief he seeks. Likewise, the Court will deny as moot the "Writ of Mandamus – Petition."

Accordingly,

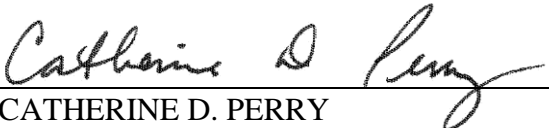
IT IS HEREBY ORDERED that plaintiff's second request for free trial transcripts [Doc. #220] is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's request to enforce the judgment [Doc. #220] is **DENIED without prejudice**.

¹It appears that plaintiff is appealing the jury's award of nominal damages and requesting additional compensatory damages. The Court found in its Memorandum and Order denying plaintiff's motion for new trial that there was no miscarriage of justice in the jury's determination that there was no provable injury in plaintiff's case.

IT IS FURTHER ORDERED that plaintiff's "Writ of Mandamus – Petition" [Doc. 223] is denied as moot.

Dated this 20th day of September, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE